

1. Do you agree with the Bill's approach? Why?

The Bill creates duties in relation to the use of restraint and seclusion in schools.

The Scottish Government would need to issue statutory guidance to education providers about the use of restraint and seclusion in schools. Education providers would have to consider this guidance when developing or changing policies.

Govan Law Centre broadly supports the Bill's approach and the aim to increase accountability, transparency and ensure best practice when it comes to the use of restraint and seclusion in schools. The SHANARRI wellbeing indicators are an important part of GIRFEC. It is difficult to reconcile the use of restraint and seclusion with ensuring children and young people feel safe, healthy, achieving, nurtured, active, respected, responsible, and included at school. Evidence shows that restraint and seclusion are potentially dangerous procedures that can lead to unintended injuries,¹ and we therefore welcome any attempts to minimise the use of both practices in schools.

We have considered the correspondence between the Convener and the Member, and agree that the Bill's approach of putting guidance on a statutory footing, rather than dealing with the matter by regulations, is an appropriate approach as we believe that statutory guidance will provide education providers and their staff with a clear message about the use of restraint and seclusion in schools. We believe that, if an education provider must have regard to the statutory guidance when designing or reviewing policies, this will ensure that alternative means will be prioritised and that restraint and seclusion will be used minimally and as a last resort. It is important that the guidance reflects that the use of restraint and seclusion should be as a last resort, should only be used to prevent the young person from harming themselves or others, and should be undertaken with the minimal amount of force. This is not a Bill to increase the use of these practices, but to ensure the safe and proper use to protect children and young people. The first step should be to avoid the use of restraint or seclusion. Planning should be done to reduce the circumstances that may require restraint and seclusion. This should be clear throughout the guidance. Prevention cannot be repeated often enough.

2. Do you think the timescale for informing parents is reasonable?

If the Bill is passed, schools would need to inform parents of a child or young person subjected to restraint or seclusion about the incident and to provide details

¹ Gage, N. (ed.) (2022) *Disproportionality and Social Justice in Education*. 1st ed. 2022. Cham: Springer International Publishing. Available at: <https://doi.org/10.1007/978-3-031-13775-4>.

of it. This would need to be done as soon as possible, and no later than 24 hours after the occurrence of the incident.

We believe the timescale for informing parents is reasonable. It is essential that parents of a child or young person are made aware of the use of restraint and seclusion as soon as possible. We believe that schools should be aiming to inform parents on the same day as the incident, but that limiting that timescale to a maximum of 24 hours ensures that information is relayed in a timely manner.

There can sometimes be a discrepancy as to whether physical intervention has taken place with some children reporting that it has but staff stating it had not. We would advise that, in those circumstances, an incident report is carried out. This will allow for events to be recorded clearly and early to avoid any confusion or dispute. It would be helpful for parents to be informed either in person by phone at the earliest opportunity so as to allow them to prepare for supporting the child and young person at home after the event. A detailed incident report can follow.

We consider that the full incident report should be required to be completed within the same timescale and that the full incident report should be made available to parents. Requiring the full incident report to be completed within the same timescale increases the accuracy and reliability of the recording of the incident. This is an important step for increasing accountability and transparency.

Requiring the full incident report to be made available to parents ensures that the schools are adopting a transparent approach when informing parents about the use of restraint or seclusion. It prevents parents having to complete Subject Access Requests for the provision of such information. We have seen, in a recent case, a Subject Access Request for the provision of such information being outstanding for more than 2 years.

3. Do you agree all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually?

If the Bill is passed, education providers must record all incidents of restraint or seclusion in their schools. This data must be collated and reported to the Scottish Government. The Scottish Government, in turn, must report to Parliament on this data at the end of each year.

We agree that all incidents of restraint or seclusion in schools should be recorded, collated and reported to Parliament annually. Research in other jurisdictions suggests that incidents of restraint or seclusion in schools goes underreported² so it is imperative, in our view, that there is a duty on schools to report all such incidents. It follows that it is imperative that the information be made publicly available by Parliament annually so that it can be considered and scrutinised.

It is widely accepted that the use of restraint and seclusion in schools should be a last resort. They are a last resort for a reason – because of the potential dangers

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and the profound and lasting impact that they generate. Anything that is considered a last resort ought to be recorded so that the practices can be properly scrutinised.

We hope that Parliament are scrutinising the use of restraint and seclusion to ensure that there is best practice being undertaken. There should be a route available for parents to report that restraint or seclusion has taken place when schools and local authorities are not self-reporting. This does not require a full detailed investigation but, in the event of multiple reports, Parliament can ensure that there is proper understanding and implementation by an education provider in which there are discrepancies.

4. What do you think about maintaining a list of training providers on the use of restraint and seclusion in schools?

If the Bill is passed, the Scottish Government must maintain a list of training providers on the use of restraint and seclusion in schools. This should also include details of courses or programmes of such training.

We agree that the Scottish Government must maintain a list of training providers on the use of restraint and seclusion in schools which should include details of courses or programmes of such training. An accessible list increases the availability of such training and the prospect of such training being taken up by education providers and their staff.

Elsewhere, there is call for mandatory training for all school staff in evidence-based alternatives to restraint and seclusion. This aligns with research highlighting the effectiveness of these methods in reducing challenging behaviours. Such training is crucial for promoting best practice and minimising the use of restrictive interventions thus reinforcing the Bill's aim to create a safe and nurturing learning environment.

We believe the Scottish Government should ensure this list is subject to ongoing review to ensure that training providers are providing the most up-to-date courses or programmes to develop best practice. We welcome an accreditation system to give education providers, parents, children, and young people reassurance that the guidance is understood and training is being carried out properly allowing for better implementation.

5. Any other comments?

Children and young people should be able to trust that their school will provide a safe and nurturing environment for them to learn. The use of restraint and seclusion in schools breaks that trust and has a profound and lasting impact on children and young people. Our Education Law Unit has first hand experience of that impact which is set out below.

The use of restraint produces accounts like this:

"I hated it. There were people holding me and lifting me. It hurt me. I felt I wanted to smack them because they were hurting me and it was sore."

The use of seclusion produces accounts like this:

"I wasn't allowed to learn with [other pupils]. I was in a room on my own and I felt angry. Sometimes I wanted to kill myself. I did not feel safe."

Govan Law Centre supports the Bill and looks forward to adding its voice to the discussion as the Bill progresses through Parliament. A child first approach to Prevention, Safety, Accountability and Review should be taken.

**Govan Law Centre
18-20 Orkney Street
Glasgow
G51 2BZ**

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